



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

COPY MAILED
MAR 15 2010

In re Patent No. 7,596,086	:
Wang et al.	:
Issue Date: September 29, 2009	: DECISION ON REQUEST FOR
Application No. 10/702,152	: RECONSIDERATION OF
Filed: November 5, 2003	: PATENT TERM ADJUSTMENT
Attorney Docket No. 08-1293	: AND NOTICE OF INTENT
Title: METHOD OF AND APPARATUS	: TO ISSUE CERTIFICATE OF
FOR VARIABLE LENGTH DATA PACKET	: CORRECTION
TRANSMISSION WITH CONFIGURABLE	:
ADAPTIVE OUTPUT SCHEDULING	:
ENABLING TRANSMISSION ON THE	:
SAME TRANSMISSION LINK(S) OF	:
DIFFERENTIATED SERVICES FOR	:
VARIOUS TRAFFIC TYPES	:

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred sixty (1260) days. Pursuant to their duty of candor and good faith to the Office, an additional period of reduction of 162 days¹ has been included in the Office's calculations.

¹ Patentees have indicated that an additional reduction may be required because a supplemental reply was submitted on June 12, 2008. A review of the record confirms that a 162 day reduction pursuant to 37 CFR 1.704 (c)(8) is required for the submission of a supplemental reply after the initial reply to the non-final Office action was submitted on January 2, 2008. The 162-day reduction is calculated beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply was filed.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand ninety-seven (1097) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 6, 2006 and ends on August 20, 2008, the day before the RCE was filed, and is 654 (not 655) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1259, not 1260 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand ninety-seven (1097) days.**

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,596,086 B2

DATED : September 29, 2009

DRAFT

INVENTOR(S) : Wang et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 949 days

Delete the phrase "by 949 days" and insert – by 1097 days--